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a Division of Graystone Tower Bank.*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re

LEHMAN BROTHERS HOLDINGS INC., *et al.*,  
  
Debtors.

LEHMAN BROTHERS HOLDINGS INC.,  
  
Plaintiff,

v.

1ST ADVANTAGE MORTGAGE, LLC *et al.*,  
  
Defendants.

**Chapter 11  
Case No. 08-13555 (SCC)**

**Related to ECF No. 59556**

**Central Adversary  
Docket No. 16-01019 (SCC)**

**LIMITED STATEMENT OF NON-OBJECTION AND RESERVATION OF RIGHTS TO  
LBHI'S MOTION FOR AN ORDER RELIEVING LBHI OF ITS DUTY TO CONTINUE  
TO MAINTAIN THE EXAMINER DATABASE IN ITS CURRENT FORM**

TO THE HONORABLE SHELLEY C. CHAPMAN,  
UNITED STATES BANKRUPTCY JUDGE:

The undersigned Defendants in the above captioned Coordinated Adversary Proceeding hereby respond to Lehman Brothers Holding Inc.'s ("LBHI" or the "Plan Administrator") motion for relief of its duty to continue to maintain the Examiner Database in its current form as follows:

1. Defendants understand that by its motion (ECF Document No. 59556) (the "Motion") LBHI would like to retire its Examiner Database (as defined in the Motion) and transfer all documents contained in said database to a hard drive, which will be held by LBHI as custodian.

2. Defendants do not object to LBHI's Motion, but reserve their right to seek a copy of the hard drive in connection with the Coordinated Adversary Proceeding because the documents maintained in the Examiner's Database may be relevant in the Coordinated Adversary Proceeding.<sup>1</sup>

3. The Examiner's investigation concluded, in part, that LBHI's sub-prime strategy contributed to its collapse and that LBHI's mortgage origination subsidiaries continued to originate subprime mortgages at a higher rate than other originators because LBHI management

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<sup>1</sup> Defendants recognize that they will have to hereafter file a motion with this Court for authority to access the Additional Documents, as defined in the Motion. However, there will be no motion necessary for authority to access the LBHI Documents, as defined in the Motion. With regard to the LBHI Documents, Defendants understand that discovery is subject only to the Amended Case Management Order entered into on March 13, 2019, the Federal Rules of Bankruptcy Procedure, the Local Rules of the United States Bankruptcy Court for the Southern District of New York, and the Chamber's Rules of this Court.

believed that LBHI had an opportunity to improve its competitive position so long as the other originators retrenched. *See* Report of Anton R. Valukas, Examiner, *In re Lehman Brothers Holdings, Inc., et al.* (S.D.N.Y. Bankr. Mar. 11, 2010), Volume 1, pp. 4, 44. The documents that support these findings may be relevant to the Coordinated Adversary Proceeding.

4. Defendants do not to object to LBHI's underlying motion to transfer said documents from its current form to a hard drive as long as LBHI agrees that: (1) it will transfer *all* documents contained in the Examiner's Database and will not alter or eliminate any information, including all metadata and document properties, contained therein; (2) it will not assert burden objections arising from the transfer of the documents from the Database to a hard drive in the event the Defendants seek documents from the Database; (3) it will not refuse to search for or produce documents on the basis that the documents are archived; (4) it will not require the Defendants to pay for the search or production of documents from the archived hard drive; and (5) it will not produce documents on a delayed timeline because the documents have been migrated off the Database and into an archived hard drive.<sup>2</sup>

5. Subject to these conditions, Defendants do not object to LBHI's underlying motion and reserve their rights to seek a copy of the hard drive in discovery in the Coordinated Adversary Proceedings.

DATED this the 20th day of March, 2019.

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<sup>2</sup> Some Defendants have sought a similar agreement from Plaintiff, but Plaintiff has not yet fully responded.

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Corporation, First Equity Mortgage Bankers,  
Inc., Crestline Funding Corporation, CTX  
Mortgage Company, LLC, Freedom Mortgage  
Corp., Gateway Mortgage Group, LLC and  
Colonial Savings F.A.*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 20th day of March 2019, a true and correct copy of the foregoing Limited Statement Of Non-Objection And Reservation Of Rights To LBHI's Motion For An Order Relieving LBHI Of Its Duty To Continue To Maintain The Examiner Database In Its Current Form was electronically filed with the Clerk of Court using the CMF/ECF. I also certify that the foregoing document is being served this day via transmission of Notice of Electronic Filing generated by CM/ECF on all parties of record.

/s/ Michael Venditto

Michael Venditto